

SENATE BILL NO. 166

INTRODUCED BY BLACK, ROUSH, L. JONES, ARNTZEN, WITT, JUNEAU

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING METHAMPHETAMINE ENFORCEMENT LAWS; MAKING THEFT OF ANY AMOUNT OF ANHYDROUS AMMONIA FOR THE PURPOSE OF MANUFACTURING DANGEROUS DRUGS A FELONY; PROVIDING THAT POSSESSION OF ~~LESS THAN 1,000 GALLONS OF~~ ANHYDROUS AMMONIA WITH INTENT TO MANUFACTURE DANGEROUS DRUGS IS CRIMINAL POSSESSION OF PRECURSORS TO DANGEROUS DRUGS, ~~EXCEPT POSSESSION BY PERSONS LAWFULLY ENGAGED IN AN AGRICULTURAL OPERATION OR IN THE BUSINESS OF SUPPLYING OR DELIVERING ANHYDROUS AMMONIA TO AGRICULTURAL OPERATIONS~~; AMENDING SECTIONS 45-6-301, 45-9-107, AND 45-9-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-301, MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over

1 stolen property knowing the property to have been stolen by another and:

2 (a) has the purpose of depriving the owner of the property;

3 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
4 owner of the property; or

5 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
6 probably will deprive the owner of the property.

7 (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts
8 unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county
9 agency, regardless of the original source of assistance, by means of:

10 (a) a knowingly false statement, representation, or impersonation; or

11 (b) a fraudulent scheme or device.

12 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or
13 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter
14 71 or 72, by means of:

15 (a) a knowingly false statement, representation, or impersonation; or

16 (b) deception or other fraudulent action.

17 (6) (a) A person commits the offense of theft when the person purposely or knowingly commits
18 insurance fraud as provided in 33-1-1202 or 33-1-1302; or

19 (b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102.

20 (7) A person commits the offense of theft of property by embezzlement when, with the purpose to
21 deprive the owner of the property, the person:

22 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer
23 or over property entrusted to the person; or

24 (b) purposely or knowingly obtains by deception control over property of the person's employer or over
25 property entrusted to the person.

26 (8) (a) ~~A~~ Except as provided in subsection (8)(b), a person convicted of the offense of theft of property
27 not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail
28 for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,000 or be
29 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or
30 subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days

1 or more than 6 months.

2 (b) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property
3 exceeding \$1,000 in value, ~~or theft of any commonly domesticated hoofed animal, or theft of any amount of~~
4 ~~anhydrous ammonia~~ FOR THE PURPOSE OF MANUFACTURING DANGEROUS DRUGS shall be fined an amount not to
5 exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

6 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement
7 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined
8 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the
9 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison
10 term may be ordered.

11 (9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
12 whether from the same person or several persons, may be aggregated in determining the value of the property."
13

14 **Section 2.** Section 45-9-107, MCA, is amended to read:

15 **"45-9-107. Criminal possession of precursors to dangerous drugs.** (1) A person commits the
16 offense of criminal possession of precursors to dangerous drugs if:

17 ~~(A)~~ the person possesses:

18 ~~(a)~~ any material, compound, mixture, or preparation that contains any combination of the following with
19 intent to manufacture dangerous drugs:

20 ~~(a)~~~~(i)~~ phenyl-2-propanone (phenylacetone);

21 ~~(b)~~~~(ii)~~ piperidine in conjunction with cyclohexanone;

22 ~~(c)~~~~(iii)~~ ephedrine;

23 ~~(d)~~~~(iv)~~ lead acetate;

24 ~~(e)~~~~(v)~~ methylamine;

25 ~~(f)~~~~(vi)~~ methylformamide;

26 ~~(g)~~~~(vii)~~ n-methylephedrine;

27 ~~(h)~~~~(viii)~~ phenylpropanolamine;

28 ~~(i)~~~~(ix)~~ pseudoephedrine;

29 ~~(j)~~~~(x)~~ anhydrous ammonia;

30 ~~(k)~~~~(xi)~~ hydriodic acid;

(~~h~~)(xii) red phosphorus;

(~~m~~)(xiii) iodine in conjunction with ephedrine, pseudoephedrine, or red phosphorus;

(~~n~~)(xiv) lithium in conjunction with anhydrous ammonia; or

~~(b) less than 1,000 gallons of anhydrous ammonia, except as provided in subsection (3).~~

(B) THE PERSON KNOWINGLY POSSESSES ANHYDROUS AMMONIA FOR THE PURPOSE OF MANUFACTURING DANGEROUS DRUGS.

(2) A person convicted of criminal possession of precursors to dangerous drugs shall be imprisoned in the state prison for a term not less than 2 years or more than 20 years or be fined an amount not to exceed \$50,000, or both.

~~———— (3) Subsection (1)(b) does not apply to possession of less than 1,000 gallons of anhydrous ammonia by a person who owns, operates, or is employed in an agricultural operation, as described in 15-1-101, or who owns, operates, or is employed in the business of supplying or delivering anhydrous ammonia to agricultural operations FOR ANY LAWFUL PURPOSE, INCLUDING USING, SUPPLYING, OR DELIVERING ANHYDROUS AMMONIA FOR AGRICULTURAL, INDUSTRIAL, METALLURGICAL, OR REFRIGERATION PURPOSES, IF THE POSSESSION IS NOT FOR THE PURPOSE OF MANUFACTURING DANGEROUS DRUGS."~~

Section 3. Section 45-9-131, MCA, is amended to read:

"45-9-131. Definitions. As used in 45-9-132 and this section, the following definitions apply:

(1) "Booby trap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. "Booby trap" includes:

(a) guns, ammunition, or explosive devices that are attached to trip wires or other triggering mechanisms;

(b) sharpened stakes, nails, spikes, electrical devices, lines, or wires with hooks attached; and

(c) devices for the production of toxic fumes or gases.

(2) "Equipment" or "laboratory equipment" means all products, components, or materials of any kind when used, intended for use, or designed for use in the manufacture, preparation, production, compounding, conversion, or processing of a dangerous drug as defined in 50-32-101. Equipment or laboratory equipment includes but is not limited to:

(a) a reaction vessel;

(b) a separatory funnel or its equivalent;

1 (c) a glass condensor;

2 (d) an analytical balance or scale; or

3 (e) a heating mantle or other heat source.

4 (3) "Precursor to dangerous drugs" means ~~any material, compound, mixture, or preparation that~~
5 ~~contains any combination of the items listed in 45-9-107(1)(a) or less than 1,000 gallons of anhydrous ammonia,~~
6 ~~except as exempted by 45-9-107(3) or 45-9-108, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT~~
7 ~~CONTAINS ANY COMBINATION OF THE ITEMS LISTED IN 45-9-107(1)(A) OR ANHYDROUS AMMONIA KNOWINGLY POSSESSED~~
8 ~~FOR THE PURPOSE OF MANUFACTURING DANGEROUS DRUGS."~~

9
10 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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